



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Rulemaking for the Purpose of Revising
General Order 96-A Regarding
Informal Filings at the Commission

Rulemaking 98-07-038

**REPLY COMMENTS
OF THE DIVISION OF RATEPAYER ADVOCATES**

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Division of Ratepayer Advocates files its reply to the Comments of California Water Association ("CWA") on the Proposed Decision of President Peevey. DRA's comments are limited to a single issue. DRA disagrees with CWA's opposition to the provision of proposed Rule 8.5 that bans recovery of balancing account under-collections over three years old. DRA's silence on any issue should not be construed as DRA's agreement with CWA's or any other parties' comments.

I. THE PROPOSED BALANCING ACCOUNT OFFSET RULE TO BAN RECOVERY OF UNDER-COLLECTIONS OVER THREE YEARS OLD DOES NOT MODIFY A PRIOR COMMISSION DECISION

CWA argues that the portion of Water Industry Rule 8.5¹ which prohibits utilities from requesting recovery of under-collected balancing account balances that are over

¹ Rule 8.5 states: A Utility shall promptly file an advice letter seeking to offset an over- or under-collected balancing account when the balance exceeds two percent of the most recent annual report revenue for the Utility (or district of the Utility). An over-collection shall be refunded as soon as possible by crediting the service charge. An under-collection shall be recovered within one year by a surcharge on the service charge or commodity charge, as appropriate (see Standard Practice U-15-W). A Utility may not request recovery for an under-collection that is over three years old. (Emphasis added.)

three years old modifies procedures adopted in D.06-04-037 and therefore is unlawful. DRA disagrees.

In D.06-04-037, the Commission eliminated the earnings tested adopted in D.03-06-072 for balancing account recovery for Class A water companies and eliminated the associated requirement for Class A water utilities to file an annual advice letter to review the status of each balancing account, to adjust rates to amortize the balance in each account, and to terminate such accounts. As CWA notes in its comments, Ordering Paragraph 3 of D.06-04-037 states:

Class A water utilities should report on the status of their balancing accounts in their general rate cases and should propose adjustments to their rates in that context to amortize under- or over-collections in those accounts subject to reasonableness review; they also should be permitted to propose such rate adjustments by advice letter at any time that the under- or over collection in any such account exceeds two percent (2%) of annual revenues for the utility or a ratemaking district of the utility.

The provision of proposed Rule 8.5 which prohibits water utilities from requesting recovery of under-collected balancing account balances that are over three years old is not inconsistent with this order nor does it modify this order.

Public Utilities Code § 455.2 requires the Commission to establish a schedule to place Class A water utilities on a three-year rate case cycle. The Commission implemented Section 455.2 in D.04-06-018 and adopted a rate case plan that placed all Class A water companies on a three-year rate case schedule. Pursuant to D.04-06-018 over- or under-collections in Class A water utilities' balancing accounts will be handled at least every three years as part of the Class A Water Utilities' rate case filings.

CWA's statement that "there is no provision presently limiting such recovery of under-collections to those that have existed for less than three years" is not accurate. (CWA Comments, p. 9.) D.06-04-037 recognized that Class A water utilities are on a three year rate case cycle and ordered utilities to propose adjustments to their rates to amortize under- or over-collections in those accounts as part each companies' general

rate case. Thus there should be no balances over three years old; the limitation is consistent with D.06-04-037.

CWA speculates that if a Commission decision is delayed, a balancing account under-collection might persist for more than the three-year cycle, thus barring recovery. CWA's concerns are misplaced. The proposed rule states that a utility may not request recovery of an under-collection that is over three years old. It is the timing of the request for recovery that is relevant and not the timing of the Commission decision. If the request is made before the under-collected amount is three years old, collection is permitted.

II. CONCLUSION

DRA supports the proposal in Rule 8.5 to prohibit utilities from requesting recovery for balancing account under-collections that are over three years old. This requirement does not modify previously adopted Commission rules.

Respectfully submitted,

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January 16, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES** in **R.98-07-038** by using the following service:

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Executed on January 16, 2007 at San Francisco, California.

/s/ ALBERT HILL

Albert Hill

N O T I C E

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